

§ 800.103

to such other considerations as that of official may direct:

- (i) Applicant's eligibility as a minority business enterprise.
- (ii) Compliance with the application requirements of § 800.101.
- (iii) Compliance with § 800.200 on allowable costs.
- (iv) Applicant's financial ability to make the bid or proposal without the loan.
- (v) Applicant's contribution of, or ability to contribute, the 25% minimum share of allowable costs, or more.
- (vi) Applicant's ability to prepare an adequate bid or proposal, if the loan is made.
- (vii) Possibility of award to applicant pursuant to its bid or proposal.

NOTE: Normally, not more than three loans will be approved for the same competitive award.

- (viii) Applicant's ability to perform pursuant to the bid or proposal.
 - (ix) Likelihood that applicant will repay the requested loan, regardless of success of applicant's bid or proposal.
 - (x) Optimal use of available program funds.
 - (xi) The Panel's recommendation.
- (d) Panel review of other applications. If the application was submitted without a specific loan request, the Panel shall review the application in accordance with paragraph (b) of this section with the limited purpose of determining whether the applicant has complied with § 800.101, except as to matters determinable only with respect to a future specific loan request, and shall inform the Application Approving Official in writing as to its determinations.

§ 800.103 Review by Application Approving Official.

- (a) The Application Approving Official shall consider the results of the Panel's review under section 102 (c) or (d), and such other information as the Application Approving Official determines to be relevant pursuant to the provisions of this regulation, and shall either approve or disapprove the application, giving it priority in accordance with the provisions of § 800.102(b).
- (b) The Application Approving Official shall authorize a contracting offi-

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cer to notify the applicant of approval or disapproval.

- (c) An applicant whose application has been rejected will be informed, on request, of the reason for rejection. Rejection is not a bar to submission of an appropriately revised application.

Subpart C—Loans

§ 800.200 Maximum loan; allowable costs.

(a) A loan under this regulation shall not exceed 75 percent of allowable costs of a bid or proposal to obtain a DOE contract or other agreement (such as a procurement contract, cooperative agreement, grant, loan or loan guarantee), or a subcontract with a DOE operating contractor, or a contract with a first-tier subcontractor of a DOE operating contractor in furtherance of the research, development, demonstration or other contract activities of DOE.

(b) To be allowable, costs must, in DOE's judgment:

- (1) Be consistent with the bidding cost principles of the Federal Procurement Regulation (41 CFR Ch. 1, 1–15.205–3) and DOE Procurement Regulation (41 CFR Ch. 9, 9–15.205–3); and;
- (2) Be necessary, reasonable and customary for the bid or proposal contemplated by the application; and
- (3) Be incurred, or expected to be incurred, by the applicant.

(c) Costs which are, in general, allowable, if consistent with paragraph (b) of this section include, but are not limited to:

- (1) Bid bond premiums.
- (2) Financial, accounting, legal, engineering and other professional, consulting or similar fees and service charges.
- (3) Printing and reproduction costs.
- (4) Travel and transportation costs.
- (5) Costs of the loan application under this rule.
- (d) Costs that are not considered as allowable costs include the following:
 - (1) Fees and commissions charged to the applicant, including finder's fees, for obtaining Federal funds.
 - (2) Expenses, which, in DOE's judgment, have primarily an application broader than the specific loan request.

Department of Energy

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(3) Costs which, in DOE's judgment, fail to conform to paragraph (b) of this section.

[46 FR 44689, Sept. 4, 1981, as amended at 48 FR 17574, Apr. 25, 1983]

§ 800.201 Findings.

A loan shall issue under this regulation only if the Secretary, having reviewed the action of the Application Approving Official, and having considered such other information as the Secretary may deem pertinent, has made all the findings that follow:

(a) That the applicant is a minority business enterprise.

(b) That the loan will assist the enterprise to participate in the research, development, demonstration or contract activities of the Department of Energy by providing funds needed by applicant for bid or proposal purposes.

(c) That, by terms of the loan, applicant's use of the funds will be limited to bidding for and obtaining a contract or other agreement with the Department of Energy, a subcontract with a DOE operating contractor, or a contract with a first-tier subcontractor of a DOE operating contractor in furtherance of the research, development, demonstration or other contract activities of DOE.

(d) That the funds to be loaned will not exceed 75% of applicant's costs in bidding for and obtaining the contract or agreement.

(e) That the rate of interest on the loan has been determined in consultation with the Secretary of the Treasury.

(f) That there is a reasonable prospect that the applicant will make the bid or proposal which is the purpose of the loan, will perform according to its bid or proposal, and will repay the loan according to the terms thereof, regardless of the success of its bid or proposal.

(g) That the terms and conditions of the loan are acceptable to the Secretary and comply with this regulation and with section 211(e) of the Department of Energy Organization Act.

[46 FR 44689, Sept. 4, 1981, as amended at 48 FR 17574, Apr. 25, 1983]

§ 800.202 Loan terms and conditions.

(a) The loan shall be based upon a loan agreement and the borrower's separate promissory note for the proceeds of the loan, including interest. The agreement and note shall be executed in writing between the borrower and the Secretary. The contracting officer shall execute the loan agreement on behalf of the Secretary. The loan agreement and the promissory note shall provide as follows, either at full length or by incorporation by reference to terms of the other of the two documents.

(1) The borrower agrees to repay the loan of funds provided by the Secretary.

(2) The interest rate on the loan is as established in consultation with the Secretary of the Treasury, taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the loan.

(3) The loan shall be repaid over a maximum period as follows, in equal monthly installments of principal and interest, unless a different frequency of installments is specified by the Secretary:

Loan value	Maximum repayment ¹
\$0—\$5,000	3 years 3 months.
\$5,000—\$25,000	5 years 3 months.
Excess of \$25,000	8 years 3 months.

¹ Maximum repayment period from date of initial disbursement.

Repayment of principal and interest shall begin within 90 days following the initial loan disbursement or such longer period as may be acceptable to the Secretary. Installments shall be applied to accrued interest first and then to repayment of principal. Past due installments shall accrue interest at the quarterly current-value-of-funds-rate specified by the Treasury for overdue accounts. Prepayments may be made at any time without penalty.

(4) The borrower shall have appropriate opportunities, as specified in the loan agreement, to cure any default, failure, or breach of any of the covenants, conditions and obligations undertaken by the borrower pursuant to the provisions of the loan agreement.